

**Benton County Planning Board
Technical Advisory Committee Meeting Minutes
January 2, 2008, 5:30 p.m.**

Call to Order & Roll Call: The following Benton County Planning Board members were present: Scott Borman, Mark Gray, Caleb Henry, Bill Kneebone, Adele Lucas, Tim Sorey, and Heath Ward. The following Benton County Planning Office staff members were present: Ashley Pope, Kathleen Davis and Karen Stewart.

Announcements:

Staff made no announcements.

Old Business:

There was no old business discussed.

New Business:

1. Variance from Setback Request - **Cloverdale Estates** - 13692 Cloverdale, Rogers - Kristin & Jason Holland

Jason Holland represented the variance request; realtor Mary Jane Cole was also present.

Ms. Pope stated that the applicant was asking for a setback variance in order to clear up the property's title work, since the rear corner of the house and the wood deck on the side are in the setback.

Ms. Cole stated that the shed to the north is also in the setback; Mr. Gray stated that portable buildings are usually ignored. Ms. Pope stated that the Board could require that this shed be moved as part of the variance request.

Ms. Pope asked the Board if the plat needs to show the adjacent building to the south on the lot next to it. Mr. Ward answered that it should.

Mr. Gray asked if the propane tank belonged to the applicant or to the neighbor; Mr. Holland stated that it belongs to the neighbor.

Mr. Sorey indicated that when granting a variance like this one, the Board typically requires a note be added stating that if the applicable structure is ever removed from the current location that nothing will be built in the setback in the future.

Ms. Pope asked the applicant to have the FEMA panel number in note #2 on the plat double-checked.

- Show the adjacent building on the south side.
- Add a note regarding no future building in the platted setbacks.
- Correct the FEMA panel number, if necessary.

2. Large Scale Development - **Mulch Colored & Plain, LLC** - 15596 Roberts Loop, Rogers - Donna Martinez

Donna Mack Martinez and Domingo Mack Martinez represented the large scale development.

Ms. Pope stated that the applicant is requesting a variance of the site plan and of the drainage study requirements; she added that most of the other large scale development requirements had been met, including the hazardous chemical compliance and fire letter.

Mr. Sorey stated that the first variance request shows "large scale development regulations" had been marked through and replaced by "surveyor's section"; he stated that it should be clarified to read "site plan and survey."

Ms. Pope read the reasons for the variance request:

- *The land does not belong to Mulch Colored & Plain, LLC*
- *The location of the business on this site is only temporary since they are planning to move the business by 2010*
- *No road work has been requested*
- *There are no employees or customers coming to and from the site*
- *The business is not run as a typical business with regular hours of operation*
- *There are no buildings; the business is all open-air activity*

Mr. Borman asked what they did on site; Mrs. Martinez answered that they grind scrap lumber from pallet companies. Mr. Martinez interjected that the wood is seasoned and EPA-certified. Mr. Borman verified that the wood is not treated; Mrs. Martinez stated that it is not. Mr. Martinez stated, "We try to keep everything under EPA standards; we don't have anything toxic."

Mr. Borman stated, "The only thing I've really got an issue with is the drainage and stormwater." He then asked the applicants if they would be stockpiling mulch on-site; Mr. Martinez answered that they would. Mr. Borman asked if there was a private well on site; Mrs. Martinez answered that there is a private well on-site.

Mrs. Martinez stated that they rarely stock more than 200 yards of each color of mulch at one time; Mr. Borman stated that they would still have to show that there would be no drainage or runoff that would contaminate the well. Mrs. Martinez stated that the well is located away from the mulch; Mr. Borman pointed out that there is no way to discern that from the submitted documentation, since no topography was included. Mr. Martinez asserted that he had built a small dam in order to catch any runoff.

Ms. Lucas asked about the one acre of land with over 500 undeveloped acres; Mrs. Martinez stated that she owns 207 acres of land. Ms. Lucas clarified that the "500 undeveloped acres" did not all belong to Mrs. Martinez, just the 207 acres.

Mrs. Martinez pointed out that there are only three houses in the vicinity, but they are "way away from me."

Mr. Kneebone asked if the operations were noisy; Mrs. Martinez stated that they were not and that "you can hear the railroad train over it." Mr. Martinez stated that the machine makes no more noise than a forklift.

Mr. Ward asked if anyone lives in the tan mobile home in the photographs that were being passed around; Mrs. Martinez stated that they do not live on the property and added that the mobile home in question is used only for storage. Mr. Ward stated that he was concerned about the proximity of the pallets and gas can to the structure.

Mr. Sorey summarized what had taken place thus far: The applicant began by asking for a waiver from the large scale development requirements entirely; they were denied by the Planning Board. The applicant has made notification and is now asking for a waiver from a portion of the large scale development requirements. He stated that the issue to be decided in two weeks (at the public hearing) would be whether or not the Board would require a site plan.

Ms. Lucas stated that she believed that the Board needed to see the topographical information on the site.

Ms. Pope stated that Staff could not recommend approval.

Mr. Sorey stated that the Board could not vote on the issue tonight, but that they could advise the applicant of what needs to be done. He stated that the Board would need to see some sort of plan that showed the layout and extent of the operations. He asked if the Board wished to require a survey; Ms. Pope stated that the whole 207 acres did not need to be surveyed.

Mr. Sorey asked if their sketch needed to indicate their nearest property boundary; Ms. Pope agreed and stated that it needed to identify a known line. Mr. Kneebone asked if the applicant needed to have only the one acre they planned on using for the business surveyed; Ms. Pope concurred, adding that any structures on the land need to be depicted on the survey, as well. Ms. Pope asked for Mr. Gray's opinion.

Mr. Gray stated, "Generally, if you start saying you need it located, it has to at least include that area that it's going to be on... we need to see the area." He indicated that the applicant would not have to do a lot split or a tract split.

Ms. Lucas noted that there were two or three trailers on the property. Ms. Pope asked if those trailers were still on the property; Mrs. Martinez stated, "Everything's out there... they're all just empty shells."

Ms. Lucas conferred with the applicant; Mrs. Martinez stated that the photographs being passed around were from 2005 and showed their property on Cloverdale, not the Roberts' Loop property. She stated that she had submitted new photographs showing the grinding machine with a one-ton truck hooked up to it and mulch piles on the property. Ms. Pope clarified that the photos being passed around were from Planning's compliance file.

Mr. Sorey reiterated that the Board would need a sketch depicting where the operations would be located with respect to some sort of boundary; he stated that the quadrangle

map might suffice to show topographical information if there is enough change in elevation.

Mr. Borman stated that the Board would require at least a drainage letter stating that there would be no adverse impact to adjacent properties; Mr. Ward concurred.

Mr. Sorey if Staff recommended that the applicant submit a site plan and a drainage letter; Ms. Pope responded affirmatively. Mr. Sorey stated that this also seemed to be the consensus of the Board. Mr. Sorey stated that the applicant should be kept on the agenda for the public hearing, since public notification had been made, even though he did not believe that they could acquire the required information in that short of a period of time. Mr. Sorey stated that the Board should hear the public input, then "let Staff handle it."

Mr. Henry asked what was contained in the drums shown in the photographs; Mrs. Martinez answered that it is paint. Ms. Lucas asked if the paint was used to color the mulch; Mrs. Martinez said that it is.

Ms. Lucas stated that the business appears to be "a nice operation," but that there are just a few matters to resolve. Mr. Martinez stated that he tried to keep the property as nice as possible.

Mrs. Martinez asked if the items that the Board requested needed to be done by someone other than themselves; Mr. Sorey answered that typically that is the case; since they need an established boundary line to tie the operation to, Mr. Sorey stated, they would need a surveyor. He added that an engineer would provide the drainage letter.

Mr. Martinez stated that when he worked in the oil fields of Texas, they used to dig drainage pits and asked if the Board would consider something like that; Mr. Sorey stated that the Board was not asking the applicant to make any further improvements. The Board is only asking for further information.

- Submit a site plan, showing the layout and extent of the operations and indicating basic topography.
- Submit a drainage letter stating that there will be no adverse impact to surrounding properties.

3. Lot Split - **Ozark Estates, Lot 8** - Stage Coach Road, Gravette - Caster & Associates

There was no representation for this project. This lot split was discussed with the lot splits for lots nine and ten.

4. Lot Split - **Ozark Estates, Lot 9** - 16490 Stage Coach Road, Gravette - Caster & Associates

There was no representation for this project. This lot split was discussed with the lot splits for lots eight and ten.

5. Lot Split - **Ozark Estates, Lot 10** - Stage Coach Road, Gravette - Caster & Associates

There was no representation for this project; Staff suggested that the Board discuss the lot splits and then Staff would contact the applicant regarding any comments. This lot split was discussed with the lot splits for lots eight and nine.

Ms. Pope stated that these three lots, all within a subdivision, are each being split into two lots; Ms. Davis verified that there were no applicable covenants. Ms. Pope stated that each lot fronts on Stage Coach Road and that a 30-foot access easement is being dedicated on lots 10 and 9 to access lots 8A, 9B, and lot 10A. She stated that the setbacks are missing from the property line and from the road. Ms. Pope added that each of the lots are almost two acres.

Ms. Lucas questioned whether any of the lots are landlocked; Ms. Pope said, "Not with the 30-foot access easement dedicated on lot 10 and lot 9b." Mr. Gray stated that it would be a driveway for two properties.

Mr. Sorey stated that this was an unimproved, private access easement for two lots and stated that the Board does not normally do that for new subdivisions; he stated that in the past the Board has required applicants to "change things around, but then again we've also granted some access easements." Mr. Gray agreed that the Board has granted access easements "when they're limited like this."

Ms. Lucas asked if the easement would be "in perpetuity"; Mr. Gray responded that it states "dedicated per this plat" which makes it record. Ms. Pope stated that the easement is not drawn up, but once the plat is recorded the easement would "be there in perpetuity."

Mr. Sorey stated that he was concerned with whether or not there was a buffer between the access easement and the adjacent property line; Ms. Pope asked if the Board wished to require the applicant to locate the proposed driveway on the plat. Mr. Gray suggested that the Board could specify a setback to the driveway.

Ms. Lucas asked if the 30-foot access easement across lots 9 and 10 gave access to lot 8A; Ms. Pope stated "Yes, it dead-ends at 8A." Ms. Lucas asked if lot 8B had frontage on Stage Coach Road; Ms. Pope stated that there is an existing gravel driveway. After further discussion, it was concluded that the driveway in question was for use by the owner of lot 9A instead of lot 8B; Mr. Gray stated that if the owner of lot 8B wished to use the driveway, they would also need an easement. Ms. Pope stated that they would need to ask the applicant whether or not lot 8B would need to use the gravel driveway.

- Specify a five-foot driveway setback from the north property line
- Indicate a buffer between the access easement and the adjacent property line
- Show lot setbacks

6. Large Scale Development - **Sulphur Springs Cell Tower** - 507 Oak Lane, Sulphur Springs - Verizon Wireless/General Dynamics

Attorney Andy Cunningham of Wooden, Fulton and Scarborough and Landon Hall/Holloman of General Dynamics represented the large scale development.

Mr. Cunningham stated that this cell tower is for Verizon Wireless; the proposed cell tower will be a 150-foot monopole with room for 3 to 4 other carriers. The tower will be used to transmit wireless high speed data and voice communications.

Ms. Pope referred the Board members to page A2B of the applicant's submitted site plan; she stated that Benton County requires a setback of the height of the tower plus fifty feet from surrounding residences and roads. She stated that the applicant has met this requirement except from the residence of Truett Knox, the individual who is leasing the property to Verizon; she added that Verizon has acquired a signed consent letter from this individual.

Ms. Lucas asked if this monopole, like others that had been brought before the Board before, was constructed to collapse down instead of falling over; Mr. Cunningham stated that they are designed to collapse. Ms. Pope directed Ms. Lucas' attention to page A4 for a picture of the tower.

Ms. Pope stated that page A2 showed the setbacks from the road.

Mr. Henry asked if the setback requirements applied to the railroad tracks; Ms. Pope stated that the ordinance does not make any mention of railroad tracks.

Mr. Henry asked, "Is it just coincidence that that railroad track is exactly tangent to the 150-foot radius, or is that just kind of the way it worked out?" Mr. Cunningham answered that he believed that it was just the way it worked out, but that he would get that confirmed.

Mr. Sorey stated that the railroad tracks and the vacant parcel to the south are both within the required setback. He asked if when adjacent owners were notified the railroad was a part of that notification list; Mr. Cunningham stated that he did not do the notifications, but he understood that it had been done; he stated that he would confirm the information.

Mr. Sorey stated that the applicant needs to show the inside radius on the 20-foot access and utility easement shown on page A2.

Ms. Pope stated that it did not appear that the applicant had notified the railroad of the proposed cell tower. She stated that the requirement is that property owners within 300 feet of a proposed large scale development be notified; the railroad is within 150 feet of the proposed site.

Mr. Cunningham asked if the requirement applied to vacant land; Ms. Pope stated that she would check on this. Mr. Gray stated that the railroad should be considered the same as a road; Mr. Cunningham concurred.

Ms. Pope read from the Benton County Cell Tower Ordinance (O-2003-42), Article 18: "...all landowners of record owning land within 300 feet of the base of the tower and all

landowners of record owning property adjacent to the parcel... must be notified in writing and given a chance to voice opposition or support..." Mr. Cunningham stated that they would notify the railroad.

Mr. Sorey suggested that the applicant acquire a letter from the railroad, if possible, since it is doubtful that the railroad would send a representative to the public hearing. Mr. Cunningham agreed to attempt to acquire the letter, but stated, "I think that that would be unlikely to produce a response." He expressed his hope that the Board would understand if the railroad refused to respond to his request.

Ms. Pope went over the stipulations:

- Notify the railroad of the proposed project and attempt to acquire a letter from them.
- Show the inside radius of the 20-foot easement.

The discussion of this project was concluded.

Other Business:

Ms. Pope asked that any of the Board members wishing to express their opinions regarding the Benton County building inspection program be present at the Committee of Thirteen meeting on January 8th at 6 p.m. Mr. Sorey asked which of the Board members would be able to attend the meeting: Mr. Ward stated that he would be there; Ms. Lucas said she would try to be there, Mr. Henry will be unable to attend.

Mr. Sorey asked if anyone saw any sense in abandoning the building inspection program; Ms. Lucas stated that she could not believe that it had only been in existence since 2006. Mr. Kneebone explained that building inspections are a way to ensure that people "get what you pay for." Mr. Ward stated that he felt that it was a public safety issue. Ms. Lucas stated that if a project like the condos was to be built without building inspections it could be a disaster. Mr. Sorey countered that those types of project generally have funding that is contingent upon inspections; he asserted that the buildings to be concerned about are built by "the guy that wants to skirt all the rules and never wants to come before us and wants to build it the way Grandpa built it... that doesn't ever get looked at, doesn't ever get checked, and has not the first clue about any kind of code requirement." Mr. Ward continued Mr. Sorey's thought, stating, "And then ten years later that property passes to someone, they're making an assumption that it was done to code because they can't see what's behind the sheetrock."

Mr. Sorey stated that he had no desire to create more regulations, since they complicate matters, but that the regulations had to make sense and required enforcement.

The Board then discussed the fee schedule; Mr. Borman pointed out that there are inequities in the fee structure that need to be looked at and stated that the Quorum Court could address those inequities; he asserted that 90% of inspection entities in the country base their fee schedule on valuation rather than on square footage, since it makes sense to charge more for projects that are more complex and require more inspections.

Mr. Sorey stated that the County also has challenges due to the area that must be covered, since it is more than any city; Mr. Borman stated that the County should "charge what it costs to do the job."

Ms. Pope asked the Board if they had received the photographs that she had sent to them; Mr. Ward stated that he had seen them and that "the electrical splice in the Coke bottle was class."

Ms. Lucas wondered if the slow-down in construction was the reason that the Planning Office's usefulness was being called into question. Mr. Sorey stated that "it's real hard to get and keep good staff... you slow down, sometimes people have to get laid off, but it doesn't mean you have to shut down a program."

The discussion regarding the building inspection program was concluded.

Ms. Pope informed the Board that she had not had the opportunity to work on the public education video recently, but that she had not forgotten it.

Adjournment

The meeting was adjourned at 6:20 p.m.